

Regulation (EU) 2018/1240 of the European Parliament and of the Council
of 12 September 2018 establishing a European Travel Information and
Authorisation System (ETIAS) and amending Regulations (EU) No 1077/2011,
(EU) No 515/2014, (EU) 2016/399, (EU) 2016/1624 and (EU) 2017/2226

CHAPTER XVI

FINAL PROVISIONS

Article 83

Transitional period and transitional measures

1 For a period of six months from the date on which ETIAS starts operations, the use of ETIAS shall be optional and the requirement to be in possession of a valid travel authorisation shall not apply. The Commission may adopt a delegated act in accordance with Article 89 to extend that period for a maximum of a further six months, renewable once.

2 During the period referred to in paragraph 1, Member States shall inform third-country nationals subject to the travel authorisation requirement crossing the external borders of the requirement to have a valid travel authorisation from the expiry of the six-month period. For this purpose, the Member States shall distribute a common leaflet to this category of travellers. The leaflet shall also be made available at the Member States' consulates in the countries whose nationals fall within the scope of this Regulation.

3 A grace period of six months shall apply following the end of the period referred to in paragraph 1 of this Article. During the grace period, the requirement to be in possession of a valid travel authorisation shall apply. During the grace period the border authorities shall exceptionally allow third-country nationals subject to the travel authorisation requirement who are not in possession of a travel authorisation to cross the external borders where they fulfil all the remaining conditions of Article 6(1) of Regulation (EU) 2016/399, provided that they are crossing the external borders of the Member States for the first time since the end of the period referred to in paragraph 1 of this Article. The border authorities shall inform such third-country nationals of the requirement to be in possession of a valid travel authorisation in accordance with point (b) of Article 6(1) of Regulation (EU) 2016/399. For that purpose, the border authorities shall distribute to those travellers a common leaflet informing them that they are exceptionally allowed to cross the external borders while not fulfilling the obligation to be in possession of a valid travel authorisation and explaining that obligation. The Commission may adopt a delegated act in accordance with Article 89 of this Regulation to extend that period for a maximum of a further six months.

During the period of grace, entries into the territories of the Member States not operating the EES shall not be taken into consideration.

4 The Commission shall, by means of implementing acts, draw up the two common leaflets referred to in paragraphs 2 and 3 of this Article, containing at a minimum the information referred to in Article 71. The leaflets shall be clear and simple and available in at least one of the official languages of each country whose nationals fall within the scope of this Regulation. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 90(2).

Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) 2018/1240 of the European Parliament and of the Council, CHAPTER XVI. (See end of Document for details)

5 During the transitional period referred to in paragraphs 1 and 2 of this Article, the ETIAS Information System shall respond to the carriers' query referred to in Article 45(2) by providing the carriers with an 'OK' answer. During the period of grace referred to in paragraph 3 of this Article, the response sent by the ETIAS Information System to the carriers' query shall take into consideration whether the third-country national is crossing the external borders of the Member States for the first time since the end of the period referred to in paragraph 1 of this Article.

Article 84

Use of data for reporting and statistics

1 The duly authorised staff of the competent authorities of Member States, the Commission, eu-LISA and the ETIAS Central Unit shall have access to consult the following data, solely for the purposes of reporting and statistics, without allowing for individual identification and in accordance with the safeguards related to non-discrimination referred to in Article 14:

- a application status information;
- b nationalities, sex and year of birth of the applicant;
- c the country of residence;
- d education (primary, secondary, higher or none);
- e current occupation (job group);
- f the type of the travel document and three-letter code of the issuing country;
- g the type of travel authorisation and, for a travel authorisation with limited territorial validity as referred to in Article 44, a reference to the Member State(s) issuing the travel authorisation with limited territorial validity;
- h the validity period of the travel authorisation; and
- i the grounds for refusing, revoking or annulling a travel authorisation.

[^{F12} For the purpose of paragraph 1 of this Article, eu-LISA shall store the data referred to in that paragraph in the central repository for reporting and statistics referred to in Article 39 of Regulation (EU) 2019/817. In accordance with Article 39(1) of that Regulation, cross-system statistical data and analytical reporting shall allow the authorities listed in paragraph 1 of this Article to obtain customisable reports and statistics, to support the implementation of the ETIAS screening rules referred to in Article 33, to improve the assessment of the security, illegal immigration and high epidemic risks, to enhance the efficiency of border checks and to help the ETIAS Central Unit and the ETIAS National Units process travel authorisation applications.]

The Commission shall, by means of implementing acts, adopt detailed rules on the operation of the central repository and the data protection and security rules applicable to the repository. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 90(2).

3 The procedures put in place by eu-LISA to monitor the development and the functioning of the ETIAS Information System referred to in Article 92(1) shall include the possibility to produce regular statistics for ensuring that monitoring.

4 Every quarter, eu-LISA shall publish statistics on the ETIAS Information System showing in particular the number and nationality of applicants whose travel authorisation was issued or refused, including the grounds for refusal, and of third-country nationals whose travel authorisation was annulled or revoked.

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[^{F2}The daily statistics shall be stored in the central repository for reporting and statistics referred to in Article 39 of Regulation (EU) 2019/817.]

5 At the end of each year, statistical data shall be compiled in an annual report for that year. The report shall be published and transmitted to the European Parliament, to the Council, to the Commission, to the European Data Protection Supervisor, to the European Border and Coast Guard Agency and to the national supervisory authorities.

6 At the request of the Commission, eu-LISA shall provide it with statistics on specific aspects related to the implementation of this Regulation as well as the statistics pursuant to paragraph 3.

Textual Amendments

- F1** Substituted by Regulation (EU) 2019/817 of the European Parliament and of the Council of 20 May 2019 on establishing a framework for interoperability between EU information systems in the field of borders and visa and amending Regulations (EC) No 767/2008, (EU) 2016/399, (EU) 2017/2226, (EU) 2018/1240, (EU) 2018/1726 and (EU) 2018/1861 of the European Parliament and of the Council and Council Decisions 2004/512/EC and 2008/633/JHA.
- F2** Inserted by Regulation (EU) 2019/817 of the European Parliament and of the Council of 20 May 2019 on establishing a framework for interoperability between EU information systems in the field of borders and visa and amending Regulations (EC) No 767/2008, (EU) 2016/399, (EU) 2017/2226, (EU) 2018/1240, (EU) 2018/1726 and (EU) 2018/1861 of the European Parliament and of the Council and Council Decisions 2004/512/EC and 2008/633/JHA.

Article 85

Costs

1 The costs incurred in connection with the development of the ETIAS Information System, with the integration of the existing national border infrastructure and the connection to the NUI, with the hosting of the NUI and with the establishment of the ETIAS Central Unit and the ETIAS National Units shall be borne by the general budget of the Union.

eu-LISA shall pay particular attention to the risk of costs increases and ensure sufficient monitoring of contractors.

2 ETIAS' operating costs shall be borne by the general budget of the Union. This shall include the operation and maintenance costs of the ETIAS Information System, including of the NUIs; the operating costs of the ETIAS Central Unit and the costs of staff and technical equipment (hardware and software) necessary for the fulfilment of the tasks of the ETIAS National Units; and translation costs incurred pursuant to Article 27(2) and (8).

The following costs shall be excluded:

- a Member States' project management office (meetings, missions, offices);
- b hosting of national IT systems (space, implementation, electricity, cooling);
- c operation of national IT systems (operators and support contracts);
- d design, development, implementation, operation and maintenance of national communication networks.

3 ETIAS' operating costs shall also include financial support to Member States for expenses incurred to customise and automate border checks in order to implement ETIAS. The total amount of this financial support shall be limited to a maximum of EUR 15 million for the

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first year of operation, to a maximum of EUR 25 million for the second year of operation and to a maximum of EUR 50 million per year for the subsequent years of operation. The Commission shall adopt delegated acts in accordance with Article 89 to further define that financial support.

4 The European Border and Coast Guard Agency, eu-LISA and Europol shall receive appropriate additional funding and the staff necessary for the fulfilment of the tasks entrusted to them under this Regulation.

5 Funding to be mobilised from the envelope referred to in point (b) of Article 5(5) of Regulation (EU) No 515/2014 to cover the costs of implementation of this Regulation referred to in paragraphs 1 to 4 of this Article shall be implemented under indirect management for the costs incurred by eu-LISA and the European Border and Coast Guard Agency and under shared management for the costs incurred by the Member States.

Article 86

Revenues

The revenues generated by the ETIAS shall constitute internal assigned revenue in accordance with Article 21(4) of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council⁽¹⁾. They shall be assigned to cover the costs of the operation and maintenance of ETIAS. Any revenue remaining after covering these costs shall be assigned to the Union budget.

Article 87

Notifications

1 Member States shall notify the Commission of the authority which is to be considered as controller referred to in Article 57.

2 The ETIAS Central Unit and the Member States shall notify the Commission and eu-LISA of the competent authorities referred to in Article 13 which have access to the ETIAS Information System.

Three months after ETIAS has started operations in accordance with Article 88, eu-LISA shall publish a consolidated list of those authorities in the *Official Journal of the European Union*. Member States shall also notify the Commission and eu-LISA of any changes of those authorities without delay. In the event of such changes, eu-LISA shall publish once a year an updated consolidated version of that information. eu-LISA shall maintain a continuously updated public website containing that information.

3 Member States shall notify the Commission and eu-LISA of their designated authorities and of their central access points referred to in Article 50 and shall notify any changes in that regard without delay.

4 eu-LISA shall notify the Commission of the successful completion of the test referred to in point (e) of Article 88(1).

The Commission shall publish the information referred to in paragraphs 1 and 3 in the *Official Journal of the European Union*. In the event of changes to the information, the Commission shall publish once a year an updated consolidated version of it. The Commission shall maintain a continuously updated public website containing the information.

Article 88

Start of operations

1 The Commission shall determine the date from which ETIAS is to start operations once the following conditions have been met:

- a the necessary amendments to the legal acts establishing the EU information systems referred to in Article 11(2) with which interoperability shall be established with the ETIAS Information System have entered into force;
- b the Regulation entrusting eu-LISA with the operational management of ETIAS has entered into force;
- c the necessary amendments to the legal acts establishing the EU information systems referred to in Article 20(2) providing for an access to these databases for the ETIAS Central Unit have entered into force;
- d the measures referred to in Article 15(5), Article 17(3), (5) and (6), Article 18(4), Article 27(3) and (5), Article 33(2) and (3), Articles 36(3), 38(3), 39(2), 45(3), 46(4), 48(4), 59(4), Article 73(3)(b), Article 83(1), (3), and (4) and Article 85(3) have been adopted;
- e eu-LISA has declared the successful completion of a comprehensive test of ETIAS;
- f eu-LISA and the ETIAS Central Unit have validated the technical and legal arrangements to collect and transmit the data referred to in Article 17 to the ETIAS Central System and have notified them to the Commission;
- g the Member States and the ETIAS Central Unit have notified to the Commission the data concerning the various authorities referred to in Article 87(1) and (3).

2 The test of ETIAS referred to in point (e) of paragraph 1 shall be conducted by eu-LISA in cooperation with the Member States and the ETIAS Central Unit.

3 The Commission shall inform the European Parliament and the Council of the results of the test carried out pursuant to point (e) of paragraph 1.

4 The Commission decision referred to in paragraph 1 shall be published in the *Official Journal of the European Union*.

5 The Member States and the ETIAS Central Unit shall start using ETIAS from the date determined by the Commission in accordance with paragraph 1.

Article 89

Exercise of the delegation

1 The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2 The power to adopt delegated acts referred to in Article 6(4), Article 17(3), (5) and (6), Articles 18(4), 27(3), Article 31, Articles 33(2), 36(4), 39(2), 54(2), Article 83(1) and (3) and Article 85(3) shall be conferred on the Commission for a period of five years from 9 October 2018. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

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3 The delegation of power referred to in Article 6(4), Article 17(3), (5) and (6), Articles 18(4), 27(3), Article 31, Articles 33(2), 36(4), 39(2), 54(2), Article 83(1) and (3) and Article 85(3) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4 Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.

5 As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6 A delegated act adopted pursuant to Article 6(4), Article 17(3), (5) or (6), Article 18(4), 27(3), Article 31, Article 33(2), 36(4), 39(2), 54(2), Article 83(1) or (3) or Article 85(3) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 90

Committee procedure

1 The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2 Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply. Where the Committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

Article 91

Advisory group

The responsibilities of eu-LISA's EES Advisory Group shall be extended to cover ETIAS. That EES-ETIAS Advisory Group shall provide eu-LISA with expertise related to ETIAS in particular in the context of the preparation of its annual work programme and its annual activity report.

Article 92

Monitoring and evaluation

1 eu-LISA shall ensure that procedures are in place to monitor the development of the ETIAS Information System in light of objectives relating to planning and costs and to monitor the functioning of ETIAS in light of objectives relating to the technical output, cost-effectiveness, security and quality of service.

2 By 10 April 2019 and every six months thereafter during the development phase of the ETIAS Information System, eu-LISA shall submit a report to the European Parliament and to the Council on the state of play of the development of the ETIAS Central System, the NUIs and the communication infrastructure between the ETIAS Central System and the NUIs. That report shall contain detailed information about the costs incurred and information as to any risks which may impact the overall costs of the system to be borne by the general budget of the Union in accordance with Article 85.

By 10 April 2019 and every six months thereafter during the development phase of the ETIAS Information System, Europol and the European Border and Coast Guard Agency shall submit a report to the European Parliament and to the Council on the state of preparation for the implementation of this Regulation including detailed information about the costs incurred and information as to any risks which may impact the overall costs of the system to be borne by the general budget of the Union in accordance with Article 85.

Once the development is finalised, eu-LISA shall submit a report to the European Parliament and to the Council explaining in detail how the objectives, in particular relating to planning and costs, were achieved as well as justifying any divergences.

3 For the purposes of technical maintenance, eu-LISA shall have access to the necessary information relating to the data processing operations performed in the ETIAS Information System.

4 Two years after the start of operations of ETIAS and every two years thereafter, eu-LISA shall submit to the European Parliament, to the Council and to the Commission a report on the technical functioning of ETIAS Information System, including the security thereof, and statistical data concerning the ETIAS watchlist in accordance with the review procedure referred to in Article 35(5) and (6).

5 Three years after the start of operations of ETIAS and every four years thereafter, the Commission shall evaluate ETIAS and shall make any necessary recommendations to the European Parliament and to the Council. That evaluation shall include:

- a the querying of Interpol SLTD and TDAWN databases through ETIAS, including information on the number of hits against those Interpol databases, the number of travel authorisations refused following such hits and information on any problems encountered, as well as, if appropriate, an assessment of the need for a legislative proposal amending this Regulation;
- b the results achieved by ETIAS having regard to its objectives, mandate and tasks;
- c the impact, effectiveness and efficiency of ETIAS' performance and its working practices in light of its objectives, mandate and tasks;
- d an assessment of the security of ETIAS;
- e the ETIAS screening rules used for the purpose of risk assessment;
- f the impact of the ETIAS watchlist including the number of travel authorisation applications which were refused for reasons that took into account a positive hit against the ETIAS watchlist;
- g the possible need to modify the mandate of the ETIAS Central Unit and the financial implications of any such modification;
- h the impact on fundamental rights;
- i the impact on diplomatic relations between the Union and the third countries involved;
- j the revenue generated through the travel authorisation fee, the costs incurred in connection with the development of ETIAS, the costs for the operation of ETIAS, the costs incurred by eu-LISA, Europol and the European Border and Coast Guard Agency

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- in relation to their tasks pursuant to this Regulation, as well as any revenue allocated in accordance with Article 86;
- k the use of ETIAS for law enforcement purposes on the basis of the information referred to in paragraph 8 of this Article;
 - l the number of applicants being invited for an interview and the percentage it represents of the total number of applicants, the reasons for requesting an interview, the number of remote interviews, the number of decisions where the travel authorisation has been granted, has been granted with a flag or has been refused, and the number of applicants invited to an interview who did not attend it, and if appropriate, an assessment of the need for a legislative proposal amending this Regulation.

The Commission shall transmit the evaluation report to the European Parliament, the Council, the European Data Protection Supervisor and the European Agency for Fundamental Rights.

6 The Member States and Europol shall provide eu-LISA, the ETIAS Central Unit and the Commission with the information necessary to draft the reports referred to in paragraphs 4 and 5. This information shall not jeopardise working methods or include information that reveals sources, staff members or investigations of the designated authorities.

7 eu-LISA and the ETIAS Central Unit shall provide the Commission with the information necessary to produce the evaluations referred to in paragraph 5.

8 While respecting the provisions of national law on the publication of sensitive information, each Member State and Europol shall prepare annual reports on the effectiveness of access to data stored in the ETIAS Central System for law enforcement purposes containing information and statistics on:

- a the exact purpose of the consultation including the type of terrorist offence or other serious criminal offence;
- b reasonable grounds given for the substantiated suspicion that the suspect, perpetrator or victim is covered by this Regulation;
- c the number of requests for access to the ETIAS Central System for law enforcement purposes;
- d the number and type of cases which have resulted in hits;
- e the number and type of cases in which the urgency procedure referred to in Article 51(4) was used, including those cases where that urgency was not accepted by the *ex post* verification carried out by the central access point.

A technical solution shall be made available to Member States in order to facilitate the collection of those data pursuant to Chapter X for the purpose of generating statistics referred to in this paragraph. The Commission shall, by means of implementing acts, adopt the specifications of the technical solution. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 90(2).

Article 93

Practical handbook

The Commission shall, in close cooperation with the Member States and the relevant Union agencies, make available a practical handbook, which shall contain guidelines, recommendations and best practices for the implementation of this Regulation. The practical handbook shall take into account relevant existing handbooks. The Commission shall adopt the practical handbook in the form of a recommendation.

Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) 2018/1240 of the European Parliament and of the Council, CHAPTER XVI. (See end of Document for details)

Article 94

Ceuta and Melilla

This Regulation shall not affect the special rules applying to the cities of Ceuta and Melilla, as defined in the Declaration of the Kingdom of Spain on the cities of Ceuta and Melilla in the Final Act to the Agreement on the Accession of the Kingdom of Spain to the Convention implementing the Schengen Agreement of 14 June 1985.

Article 95

Financial contribution of the countries associated with the implementation, application and development of the Schengen acquis

Under the relevant provisions of their association agreements, arrangements shall be made in relation to the financial contributions of the countries associated with the implementation, application and development of the Schengen *acquis*.

Article 96

Entry into force and applicability

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall apply from the date determined by the Commission in accordance with Article 88, with the exception of Articles 6, 11, 12, 33, 34, 35, 59, 71, 72, 73, Articles 75 to 79, Articles 82, 85, 87, 89, 90, 91, Article 92(1) and (2), Articles 93 and 95, as well as the provisions related to the measures referred to in point (d) of Article 88(1), which shall apply from 9 October 2018.

The provisions relating to the consultation of Eurodac shall apply from the date the recast of Regulation (EU) No 603/2013 of the European Parliament and of the Council⁽²⁾ becomes applicable.

Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) 2018/1240 of the European Parliament and of the Council, CHAPTER XVI. (See end of Document for details)

- (1) Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 ([OJ L 298, 26.10.2012, p. 1](#)).
- (2) Regulation (EU) No 603/2013 of the European Parliament and of the Council of 26 June 2013 on the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes, and amending Regulation (EU) No 1077/2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice ([OJ L 180, 29.6.2013, p. 1](#)).

Changes to legislation:

There are currently no known outstanding effects for the Regulation (EU) 2018/1240 of the European Parliament and of the Council, CHAPTER XVI.